



PUBLIC NOTICE

Federal Communications Commission
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DA 21-994

Released: August 13, 2021

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON PETITIONS FOR DECLARATORY RULING FILED PURSUANT TO SECTION 253 OF THE COMMUNICATIONS ACT

WC Docket No. 21-323
WC Docket No. 21-217

Comments Due: September 22, 2021
Reply Comments Due: October 12, 2021

Consistent with section 1.2(b) of the Commission's rules,¹ the Wireline Competition Bureau seeks comment on two petitions for declaratory ruling filed pursuant to section 253(d) of the Communications Act (Act).² The first petition was filed on May 10, 2021 by Missouri Network Alliance, LLC d/b/a Bluebird Network (Bluebird)³ and asks the Commission to preempt a per linear foot fee charged by the city of Columbia, Missouri for use of its rights of way on the grounds that the fee requirement violates section 253(a) of the Act.⁴ The second petition was filed on May 12, 2021 by MCC Iowa LLC (Mediacom)⁵ and argues that rights and privileges conferred to one ISP under a contract with the city of West Des Moines, Iowa (West Des Moines) for the construction of a conduit network,⁶ together with regulatory and other burdens imposed on other ISPs by West Des Moines,⁷ effectively prohibit Mediacom from providing telecommunications services in violation of section 253(a) of the Act.⁸

Interested parties may file comments or oppositions to the Petitions on or before **September 22, 2021** and reply comments on or before **October 12, 2021**. All filings addressing the Bluebird Petition must reference WC Docket No. 21-323 and all filings addressing the Mediacom Petition must reference

¹ 47 CFR § 1.2(b).

² 47 U.S.C. § 253(d).

³ Petition of Missouri Network Alliance, LLC d/b/a Bluebird Network for Preemption and Declaratory Ruling Pursuant to Section 253(d) of the Communications Act (filed May 10, 2021), <https://www.fcc.gov/ecfs/filing/10510356815100> (Bluebird Petition).

⁴ Bluebird Petition at 12-28.

⁵ Petition of MCC Iowa LLC for Expedited Declaratory Ruling Pursuant to Section 253(d) of the Communications Act (filed May 12, 2021), <https://www.fcc.gov/ecfs/filing/1051284318481> (Mediacom Petition). Additional documents filed by Mediacom in support of its petition are available via ECFS in WC Docket No. 21-217.

⁶ *Id.* at 13-22.

⁷ *Id.* at 6-8, 34, 40-41, 44.

⁸ *Id.* at 25, 45, 55, 47; 47 U.S.C. § 253(a).

WC Docket No. 21-217. All comments or oppositions must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Electronic Filers: Comments and oppositions may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): www.fcc.gov/ecfs.⁹
- Paper Filers: Parties who choose to file paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street N.E., Washington, DC 20544.
 - Until further notice, the Commission will not accept any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals and mitigate the transmission of COVID-19.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

The proceedings this Notice initiates shall be treated as "permit-but-disclose" proceedings in accordance with the Commission's *ex parte* rules.¹⁰ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact John Visclosky, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0825 or via e-mail at John.Visclosky@fcc.gov.

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⁹ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹⁰ 47 CFR § 1.1200 *et seq.*